Supreme Court, U.S.
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No. _____

In the

Supreme Court of the United States

October Term, 2000

ADAMS OUTDOOR ADVERTISING,

Petitioner

v

CITY OF EAST LANSING,

Respondent

On Petition for Writ of Certiorari to the Supreme Court of the State of Michigan

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PETITION FOR WRIT OF CERTIORARI

Michael H. Perry (P 22890)
FRASER TREBILCOCK DAVIS & FOSTER, P.C.
Attorneys for Petitioner
1000 Michigan National Tower
Lansing, Michigan 48933
517/482-5800

32 pp

QUESTIONS PRESENTED

1. Whether the Michigan Supreme Court's ruling that the Petitioner/Lessee did not have a property right protected by the Fifth Amendment of the United States Constitution conflicts with this Court's rulings in United States v. General Motors, 323 U.S. 373; 65 S. Ct. 357; 89 L.Ed. 311 (1945) and United States v. Petty Motor Co., 327 U.S. 372; 66 S.Ct. 596; 90 L.Ed. 729 (1946), both of which recognized that the Fifth Amendment of the United States Constitution protected a tenant's interest in real property?

2. Whether the Michigan Supreme Court's ruling that the Respondent had not unconstitutionally taken the Petitioner's interest in its rooftop billboards conflicts with and is contrary to this Court's ruling in Lucas v. South Carolina Coastal Council, 505 U.S. 1003; 112 S.Ct. 2886; 120 L.Ed. 2d 798 (1992)?

3. Whether the Michigan Supreme Court committed reversible error when it found that the Defendant's sign code did not effect a taking of Petitioner's interest in its rooftop signs because the Defendant's ordinance predated the Petitioner's acquisition of the billboards and leases and predated the subsequent renewal of the leases?

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The Petitioner, Adams Outdoor Advertising, respectfully prays that a writ of certiorari issue to review the judgment and opinion of the Michigan Supreme Court, entered in the above-entitled proceeding on July 26, 2000.

OPINIONS BELOW

This petition is from a decision of the Michigan Supreme Court reported at 463 Mich. 17; 614 N.W. 2d 634 (Mich. 2000) rehearing denied, 463 Mich. 1211 (Mich., 2000). The Michigan Supreme Court decision is reproduced as Appendix item A. The Order denying the Petitioner's motion for rehearing is reproduced as Appendix item B.

The Michigan Supreme Court decision reversed a Michigan Court of Appeals decision, Adams Outdoor Advertising v. City of East Lansing, 232 Mich. App. 587; 591 N.W. 2d 404 (Mich. App. 1998). This decision is reproduced as Appendix item C.

There was one relevant decision by the Ingham County Circuit Court. The Trial Court's bench opinion is reproduced as Appendix item D. The Trial Court's January 8, 1997 Order is reproduced as Appendix item E.

JURISDICTION

The Opinion of the Michigan Supreme Court which is the subject of this Petition was filed and entered

on July 26, 2000. Thereafter, the Petitioner, Adams Outdoor Advertising, timely filed a motion for rehearing pursuant to Michigan Court Rule (M.C.R.) 7.313(D). The Michigan Supreme Court denied the Petitioner's motion for rehearing on September 19, 2000 (Appendix, item B). This Petition for Writ of Certiorari is timely filed in accordance with Rule 13.1 of the Rules of this Court. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1257(a).

CONSTITUTIONAL PROVISION AT ISSUE

The Fifth Amendment to the United States Constitution states in relevant part:

> "[N]or shall private property be taken for public use without just compensation."

The Fifth Amendment is applicable to the states through the Fourteenth Amendment. Penn Central Transportation Co. v. New York City, 438 U.S. 104, 122; 98 S. Ct. 2646; 57 L.Ed. 2d 631 (1978).

STATEMENT OF THE CASE

FACTS

This case arises out of the Respondent City of East Lansing's (hereafter Respondent or East Lansing) elimination of the Petitioner Adams Outdoor Advertising's (hereafter Adams or Petitioner) lawfully constructed and

expressly permitted rooftop billboards. Adams leases two separate parcels of real property within the City of East Lansing (Plaintiff's trial exhibits 1 and 2 – leases for 1108 E. Grand River Avenue and 111 N. Harrison, East Lansing, Michigan). It maintains and uses a rooftop outdoor advertising structure at each location. There are two 12 feet by 25 feet back-to-back poster panels located at 1108 E. Grand River Avenue and there are three poster panels located at 111 N. Harrison (Plaintiff's trial exhibits 1, 2 and 30). One of the properties was first leased to one of Adams' predecessors in 1954 (Plaintiff's trial exhibit 2). The other was first leased to Adams' predecessor in 1968 (Petitioner's trial exhibit 1). In 1968, the Defendant issued permits to Adams' predecessor, Central Advertising Company, for the billboards (Petitioner's trial exhibit 15 – request for admissions, ¶¶2-4 and Petitioner's trial exhibit 16 – Defendant's answers to request for admissions). The Petitioner's signs complied with the Defendant's code of ordinances before the Defendant adopted its current sign code which is at issue in this case (Petitioner's trial exhibit 15 – request for admissions, ¶¶5-7 and Petitioner's trial exhibit 16 – Defendant's answers to request for admissions, ¶¶5-7).

In 1975, the respondent adopted its current sign code. Section 8.38(12) of the code prohibits rooftop billboards and signs (Appendix, item F, p. 2). Section 8.39(8) of the code required the elimination of all non-conforming signs by May 1, 1987 (Appendix, item F, p. 3). The Respondent's sign code required the elimination

of Adams' signs (Trial Tr. pp. 159-160). The Respondent's sign code did not provide for the payment of compensation for the elimination of the non-conforming billboards (Trial Tr., p. 88; Petitioner's Trial exhibit 15 – request for admissions, ¶10 and Petitioner's trial exhibit 16 – Defendant's answers to request for admissions, ¶10). The evidence presented at trial was that the value of Adams' rooftop signs was $57,500 and $55,000, respectively, for a total of $112,500 (Trial Tr., pp. 87-88).

THE LITIGATION

1. The Ingham County Circuit Court (Trial Court).

In its Complaint in the Ingham County Circuit Court (the Trial Court), Adams Outdoor Advertising, and other parties not presently involved at the instant stage of the proceeding, sought a declaratory judgment that the Defendant's uncompensated elimination of Adams' previously lawful nonconforming billboards was contrary to the Fifth Amendment of the United States Constitution. Adams had also sought a declaration that the Respondent's ordinance was contrary to Michigan statutory law. Although the Trial Court and the Michigan Court of Appeals agreed with the latter, the Michigan Supreme Court found to the contrary. Adams v. East Lansing, 439 Mich. 209, 219; 483 N.W. 2d 38 (1992) (Adams I). The Michigan Supreme Court remanded the case to the Trial Court to determine whether the application of the Defendant's sign code to Adams' signs resulted in an unconstitutional taking. 439 Mich. at 219.

Following the Michigan Supreme Court's 1992 remand, the Trial Court conducted a trial on December 9, 1996. In its Trial Brief, Adams argued that the Defendant's elimination of the rooftop billboards was an unconstitutional taking, contrary to the Fifth Amendment. The Trial Court so found (Appendix, items D and E).

2. Michigan Court of Appeals.

The Michigan Court of Appeals affirmed the Trial Court's ruling insofar as it pertained to Adams' rooftop billboards. 232 Mich. App. 587, 605; 591 N.W. 2d 404 (1998) (Appendix, item C, p. 19).

3. Michigan Supreme Court.

Despite the fact that the Respondent had failed to make such an argument, the Michigan Supreme Court analyzed Adams' rights vis-à-vis those of the Lessors who were not parties to the case. 463 Mich. at 24 - see Appendix, item A, p. 8. As described above, the Court found that the Lessors had no right to display the rooftop signs upon their rooftops and that Adams lacked such a right as well. 463 Mich. at 26; Appendix, item A, p. 10. The Court also found that because Adams had acquired its rooftop signs and leases in 1983 and had renewed those leases in 1993 and 1996, it lacked a reasonable expectation that it could maintain its signs after the ordinance's effective date of May 1, 1987. 463 Mich. at 27; see, Appendix, item A, p. 11.

SUMMARY OF ARGUMENT

The Michigan Supreme Court's analysis of Adams' constitutional rights as a lessee, as being derivative of those of its lessors, conflicts with this Court's recognition that the Fifth Amendment applies to a tenant's interest in

property. United States v. General Motors, supra, and United States v. Petty Motor Co., supra.

The enforcement of the Defendant's sign code results in the complete elimination of Adams' rooftop billboards. This is a "categorical" taking and is contrary to this Court's ruling in Lucas v. South Carolina Coastal Council, supra.

The Michigan Supreme Court's holding that Adams did not have a reasonable expectation that it could maintain its signs and renew its leases after the effective date of the Defendant's ordinance is also contrary to Lucas, supra, and well-established common law real property principles. As noted later in this Petition, the question of whether one's regulatory takings claim is barred where the enactment of the regulation at issue predates the claimant's acquisition of the property is presently pending before this Court in Palazzolo v. Rhode Island, Supreme Court Docket No. 992047, cert. granted, 69 U.S. Law Week 3257 (October 10, 2000); see, 69 U.S. Law Week 3027 (July 11, 2000) for the statement of the questions presented in Palazzolo, supra.

REASONS FOR GRANTING THE WRIT

GROUNDS FOR ADAMS' PETITION

The grounds for the instant petition are as follows. First, the Michigan Supreme Court has decided an important federal question (i.e., whether a governmental

body had unconstitutionally taken one's leasehold interest in property without the payment of just compensation therefor, contrary to the Fifth Amendment) in a way that conflicts with the relevant decisions of this Court, including United States v. General Motors, supra, United States v. Petty Motors, supra, Lucas v. South Carolina Coastal Council, supra, and Almota Farmers Elevator & Warehouse Co. v. United States, 409 U.S. 470; 93 S. Ct. 791; 35 L. Ed. 1 (1973). See, Rule 10(c) of the Supreme Court Rules.

Second, the Michigan Supreme Court has decided an important question of federal law (see above) in a way which conflicts with Lucas, supra, which prohibits the uncompensated "categorical taking" of one's property. See, Rule 10(b) of the Supreme Court Rules.

Third, the Michigan Supreme Court has decided an important question of federal law, i.e., whether one can maintain a regulatory taking claim where the regulation at issue predated the property owner's acquisition of the property, which has not been, but should be, settled by this Court. See, Rule 10(c) of the Rules of the Supreme Court. This particular issue is presently before the Court in the matter of Palazzolo v. Rhode Island, supra.

A. THE MICHIGAN SUPREME COURT'S RULING THAT THE PETITIONER/ LESSEE DID NOT HAVE A PROPERTY RIGHT PROTECTED BY THE FIFTH AMENDMENT OF THE UNITED STATES CONSTITUTION CONFLICTS WITH THIS COURT'S RULINGS IN UNITED STATES v. GENERAL MOTORS, 323 U.S. 373; 65 S. CT. 357; 89 L.ED. 311 (1945) AND UNITED STATES v. PETTY MOTOR CO., 327 U.S. 372; 66 S.CT. 596; 90 L.ED. 729 (1946), BOTH OF WHICH RECOGNIZED THAT THE FIFTH AMENDMENT OF THE UNITED STATES CONSTITUTION PROTECTED A TENANT'S INTEREST IN REAL PROPERTY.

The Michigan Supreme Court found that the constitutional rights of Adams, the lessee, were derivative of those of its two lessors. 463 Mich. at 24-26. By doing so, the Michigan Supreme Court decision ran afoul of this Court's ruling in United States v. General Motors, supra. In that matter, the United States had condemned part of General Motors' leasehold for the storage of wartime material. 323 U.S. at 375. The government had not condemned the landlord's fee interest but instead only sought to take the lessee's interest in the property. 323

U.S. at 375. During the course of its opinion this Court recognized that:

> "the right to occupy, for a day, a month, a year, or a series of years, in and of itself and without reference to the actual use, needs or collateral arrangements of the occupier, has a value." 323 U.S. at 379.

This Court then held:

> "When [the government] takes the property, that is, the fee, the lease, whatever [one] may own, terminating altogether his interest, under the established law it must pay him for what is taken..." 323 U.S. at 382.

The Michigan Supreme Court's derivative analysis of Adams' rights is contrary to this Court's analysis of General Motors' Fifth Amendment rights. It is also contrary to this Court's finding in United States v. Petty Motor Co., 327 U.S. 372; 66 S. Ct. 596; 90 L. Ed. 729 (1946), another case arising out of the government's condemnation of a property for use during World War II. Although the building's owner had agreed that the government may temporarily use the property, the United States proceeded to condemn the various tenants' leasehold interests. 327 U.S. at 374. During the course of its opinion, this Court in Petty Motor Co. said:

> "... It is immaterial whether the government actually took the leaseholds of the tenants in addition to taking the temporary use of the fee or only destroyed the tenants' right of occupancy. If any property is taken, compensation is required." 327 U.S. at 378.

The instant Michigan Supreme Court's ruling is directly contrary to the principles of General Motors and Petty Motor Co. In neither of those cases did this Court determine whether the respective tenant's rights to compensation were derivative of the respective lessor's rights. In both of those cases, the landlord/lessor's interest was not at issue. In General Motors, the government had not condemned the fee. 323 U.S. at 375. In Petty Motor Co., the lessor had agreed that the government could use the property. 327 U.S. at 374. Notwithstanding those lessors' situations, this Court found that the Fifth Amendment protected the rights of the lessees in both of those cases.

Because the Michigan Supreme Court's ruling is contrary to this Court's rulings in General Motors, supra, and Petty Motor Co., supra, Adams respectfully requests the Court to grant the Petition for Certiorari and thereafter reverse the Michigan Supreme Court's erroneous ruling.

B. THE MICHIGAN SUPREME COURT'S RULING THAT THE RESPONDENT HAD NOT UNCONSTITUTIONALLY TAKEN THE PETITIONER'S INTEREST IN ITS ROOFTOP BILLBOARDS CONFLICTS WITH AND IS CONTRARY TO THIS COURT'S RULING IN LUCAS v. SOUTH CAROLINA COASTAL COUNCIL, 505 U.S. 1003; 112 S.CT. 2886; 120 L.ED. 2D 798 (1992)

The instant Trial Court relied upon Lucas v. South Carolina Coastal Council, supra in support of its finding that the Defendant's ordinance was unconstitutional (Appendix, item D, p. 5).

In Lucas, the State of South Carolina had enacted a statute which prevented the erection of a structure upon one's beach-front property. Lucas sustained the beach-front property owner's contention that the adoption of a statute was an unconstitutional taking, and reaffirmed the general principle that:

> "When the owner of real property has been called upon to sacrifice *all* economically beneficial uses in the name of the common good, this is, to leave his property economically idle, he has suffered a

> taking." 505 U.S. at 1019 (emphasis in original).

Like the State of South Carolina, the instant Defendant, by way of a legislative pronouncement (i.e., an ordinance), called upon Adams to sacrifice all of the economically beneficial uses of its rooftop billboards. The Trial Court correctly applied Lucas (and the instant Court of Appeals correctly applied its principle) to the Defendant's ordinance and found that the Defendant's compelled and uncompensated removal of Adams' rooftop signs was an unconstitutional taking. The Michigan Supreme Court erroneously ruled to the contrary. Adams respectfully requests this Court to grant its Petition for Certiorari and find that Lucas applies to the instant matter and mandates a finding that the Defendant's ordinance is contrary to the Fifth Amendment.

As this Court held in Lucas, the only constitutionally permissible basis for the government's right to take one's property without paying for it is if the property's use is a nuisance. Lucas held:

> "...as it would be required to do if it sought to restrain Lucas in a common-law action for public nuisance, South Carolina must identify background principles of nuisance and property law that prohibit the uses he now intends in the circumstances in which the property is presently found. Only on

> this showing can the State fairly claim that, in proscribing all such beneficial uses, the Beachfront Management Act is taking nothing." (underlining added, footnote omitted) 505 U.S. at 1031 - 1032.

By substituting the words "Adams," "East Lansing," "city," "rooftop billboards," and "sign ordinance" for the above underlined words, respectively, this Court can, and should, make Lucas' holding its own.

Adams' off-premises billboard signs are not a nuisance. The Respondent never claimed that they were. Further, during the course of its first opinion in this matter, the Michigan Supreme Court, through one of its justices, recognized that Adams' billboards "are not contraband." 439 Mich. at 239 (Justice Levin).

Also, the Michigan Legislature has recognized that:

> "Outdoor advertising is a legitimate commercial use of private property, is an integral part of the marketing function and an established segment of the economy of this state." M.C.L. 252.303; M.S.A. 9.391(103).

Adams' billboards are not nuisances. Lucas recognized that the government may not deprive one's property of its

"economic utility" unless that property's use qualifies as a nuisance. 505 U.S. at 1031. The instant Respondent, contrary to Lucas, has indeed deprived Adams' leasehold interests of their "economic utility." By doing so, the Defendant has taken Adams' property without the payment of just compensation, contrary to the Fifth Amendment.

C. THE MICHIGAN SUPREME COURT COMMITTED REVERSIBLE ERROR WHEN IT FOUND THAT THE DEFENDANT'S SIGN CODE DID NOT EFFECT A TAKING OF PETITIONER'S INTEREST IN ITS ROOFTOP SIGNS BECAUSE THE DEFENDANT'S ORDINANCE PRE-DATED THE PETITIONER'S ACQUISITION OF THE BILLBOARDS AND LEASES AND PREDATED THE SUBSEQUENT RENEWAL OF THE LEASES.

The Michigan Supreme Court purported to analyze Adams' regulatory takings claim under both the Lucas "categorical" analysis and the Penn Central Transportation Co. v. New York City, 438 U.S. 104; 98 S. Ct. 2646; 57 L.Ed. 2d 631 (1978) "balancing test." One of the factors relevant to the latter is:

> "The extent by which the regulation has interfered with distinct, investment-backed expectations." Penn Central, supra, 438 U.S. at 124.

Apparently referring to the third prong of Penn Central's balancing test, the instant Michigan Supreme Court found that Adams lacked a "reasonable expectation" that it could use its rooftop signs after May 1, 1987 where Adams had acquired its signs and leases in 1983 (after the 1975 passage of the ordinance) and had renewed its leases in 1993 and 1996. 463 Mich. at 27; see Appendix, item A, p. 11. Assuming arguendo, that this Court finds that the Defendant's ordinance did not result in a Lucas-style categorical taking, Adams respectfully requests the Court to grant the instant Petition for Certiorari, as it did in Palazzolo, supra, and thereafter find that Adams' acquisition of its signs and leases after the adoption of the ordinance, and its renewal of those leases after its effective date, does not preclude its claim.

Presently pending before this Court is Palazzolo v. Rhode Island, United States Supreme Court Docket No. 99-2047. The Court granted the Petition for Certiorari therein on or about October 10, 2000. 69 U.S. Law Week 3257 (October 10, 2000). One of the questions presented in Palazzolo is whether one's regulatory takings claim is barred whenever the regulation at issue predates the claimant's acquisition of the property. Palazzolo, Docket No. 99-2047, 69 U.S. Law Week 3027 (July 11,

2000). The Rhode Island Supreme Court had found that Mr. Palazzolo could not maintain his regulatory takings claim where the State of Rhode Island's regulation had predated his acquisition of the property. 746 A.2d 707, 715. The instant Michigan Supreme Court made a similar finding. 463 Mich. at 27. The Michigan Supreme Court made the same error that the Rhode Island Supreme Court made. Adams requests this Court to grant its Petition for Certiorari, as it did in Palazzolo, supra and find that Adams' acquisition of its billboards and leases after the adoption of the instant Respondent's 1975 sign code does not preclude a finding that Adams had a reasonable expectation that it could continue to maintain its rooftop billboards after May 1, 1987.

During the course of its opinion, Palazzolo referred to this Court's statement in Lucas, supra, that:

> "Where the State seeks to sustain regulation that deprives land of all economically beneficial use, we think it may resist compensation only if the logically antecedent inquiry into the nature of the owner's estate shows that the proscribed use interests were not part of his title to begin with." Lucas, supra, 505 U.S. at 1027, cited in Palazzolo, supra, 746 A.2d at 715.

Palazzolo found that because the property owner therein had acquired his property after the State's regulations in question were already in place, the owner lacked a regulatory takings claim. 746 A.2d at 715. Palazzolo also relied upon the above Lucas statement when it rejected Mr. Palazzolo's argument that the date of the regulation's adoption was irrelevant. 746 A.2d at 716. Further, Palazzolo held that because the regulations had been in place when Mr. Palazzolo acquired the property, he lacked an investment-backed expectation that he could fill the coastal wetlands at issue therein. 746 A.2d at 717.

As noted in Palazzolo, supra, Lucas requires the Court to determine whether the nature of one's estate included the use in question. 746 A.2d at 715, citing Lucas, supra. An analysis of Adams' estate should lead this Court to grant the instant petition to reverse the erroneous ruling of the Michigan Supreme Court.

First, unlike the situation in Palazzolo, and of greater Fifth Amendment significance, the instant case involves the elimination of an existing use of property.[1]

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[1] Adams is unaware of any decision by this Court which upheld a governmental body's uncompensated elimination of an existing and lawful use of property. Typically, this Court has considered a regulatory takings claim within the context of the proposed development of one's property. See, e.g. City of Monterey v. Del Monte Dunes, 526

Palazzolo involved a request to develop raw land (coastal wetlands). The instant Respondent had issued permits for the rooftop billboards at issue more than seven years before the adoption of the ordinance and approximately 19 years before its effective date. The billboards were lawful before the Respondent passed and then later enforced its ordinance.

State common law principles define the property rights and interest that are protected by the United States Constitution. Board of Regents of State College v. Roth, 408 U.S. 564, 577; 92 S. Ct. 2701; 33 L.Ed. 2d 548 (1972). One such common law principle of real property law is that:

> "The right to maintain a nonconforming use does not depend upon ownership or tenancy of the land on which the use is situated. It is not personal to the current owner or tenant but attaches to the land itself. Accordingly, a change in the ownership or tenancy of a nonconforming business or structure does not affect the right to continue the nonconforming use; such right can be exercised equally by the purchaser. Since the right runs with the land, it is not lost although the use in question was

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U.S. 687, 704; 119 S.Ct. 1624; 143 L.Ed. 2d 882 (1999) and Lucas, supra.

conducted by a tenant and is carried on by a new tenant.

> "A change of ownership of land to which a nonconforming use has attached does not affect the right to such use although the change occurred after the restrictive ordinance became effective. And the right is not forfeited by a purchaser who takes with knowledge of the regulations which are inconsistent with the existing use." 83 Am. Jur. 2d Zoning and Planning, § 656, pp. 557-558 and cases cited therein (footnotes omitted.)

Although the above text does not cite any Michigan decisions, Michigan law is in accord with the rule that a subsequent owner has the constitutional right to continue a predecessor's non-conforming use of the purchased property. Redford Moving & Storage Co. v. City of Detroit, 336 Mich. 702, 711; 58 N.W. 2d 812 (1953).[2]

Unlike the property owner in Palazzolo, supra, Adams acquired an existing and lawful use of property. Although the Respondent had, by fiat, declared that use to

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[2] Adams I, supra, held that the instant Respondent had the implied statutory authority to eliminate the non-conforming signs. 439 Mich. at 219.

be nonconforming in 1975, that lawful nonconforming use ran with the real property owned by Adams' lessors. Consistent with Lucas' above admonition (approvingly cited in Palazzolo, supra), the instant Respondent is unable to eliminate Adams' right to continue to use the property without paying Adams just compensation. 505 U.S. at 1027.

Second, as a matter of fact, Adams had a distinct expectation that it would be allowed to continue to use the billboards in question. Both the general history of billboard jurisprudence within the State of Michigan, and in particular, the experiences of Adams' immediate predecessor, Central Advertising Company, demonstrate that Adams had a reasonable expectation that it could continue to use the rooftop leaseholds. Among other things, the following factors support this proposition:

- In 1937, the Michigan Supreme Court held that a city's police power authority to regulate billboards did not allow a city to terminate the use of a non-conforming billboard. Wolverine Sign Works v. City of Bloomfield Hills, 279 Mich. 205, 208; 271 N.W. 823 (1937);

- In 1972, three years before the Defendant adopted its ordinance, the Michigan Court of Appeals held that the City of Ann Arbor did not have a right to eliminate over time Central Advertising Company's non-conforming off-

premises billboards. Central Advertising Company v. Ann Arbor, 42 Mich. App. 59, 73; 201 N.W.2d 365 (1972).

- In 1974, more than a year before the Defendant adopted its ordinance and 13 years before its effective date, the Michigan Supreme Court affirmed the above Court of Appeals ruling, albeit on other grounds. Central Advertising Co. v. Ann Arbor, 391 Mich. 533; 218 N.W.2d 27 (1974).

- In April of 1975, the Washtenaw County Circuit Court reaffirmed its findings regarding the invalidity of the City of Ann Arbor's sign code. In June of 1975, the Michigan Supreme Court affirmed the Trial Court's ruling within the context of its prior holding. Central Advertising Co. v. Ann Arbor, 394 Mich. 943 (1975).

- Adams acquired its rooftop leaseholds from Central Advertising Company in 1983. It did so after many years of Michigan billboard jurisprudence had established the rights of a billboard owner. One of those owners was Adams' immediate predecessor (Central Advertising Company) and the party to whom the Defendant had issued permits and a license for the instant billboards.

Adams also had the legal right to expect that it could renew its leases with its lessors. Its Fifth Amendment-protected leasehold rights (see, General Motors and Petty Motor Co., supra), included its right to renew its leases. Almota Farmers Elevator & Warehouse Co. v. United States, 409 U.S. 470; 93 S.Ct. 791; 35 L.Ed. 2d 1 (1973). Adams had a right to renew its leases in 1993 and 1996.

The relevant Michigan jurisprudential history applicable to the instant case, buttressed by this Court's decisions in, among others, General Motors, Petty Motors, and Almota Farmers Elevator & Warehouse, supra, demonstrates that Adams had a reasonable expectation that it would be allowed to continue to use the rooftop billboards. The right to use those lawful pre-existing structures ran with the land. This was part of Adams' "title," i.e., its "bundle" of rights. Adams had an expectation that it could use the billboards. For these reasons, Adams requests the Court to grant this Petition for Certiorari and reverse the decision of the Michigan Supreme Court.

CONCLUSION AND RELIEF REQUESTED

As demonstrated above, the Michigan Supreme Court's finding is clearly contrary to many of this Court's decisions. The Michigan Supreme Court did not merely misapply a properly stated rule of law. Rather, its

decision is clearly contrary to the Fifth Amendment's requirement that the Defendant must pay just compensation for the elimination of Adams' property rights. Adams requests the Court to grant its Petition for Certiorari, find that the enforcement of the Defendant's sign code is contrary to Adams' Fifth Amendment rights, and reverse the erroneous decision of the Michigan Supreme Court.

Respectfully submitted,

FRASER TREBILCOCK DAVIS & FOSTER, P.C.
Attorneys for Plaintiffs

By: _____

Michael H. Perry (P 22890)
1000 Michigan National Tower
Lansing, Michigan 48933
(517) 482-5800

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